HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.25832 of 2006

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Dated:13.12.2006

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Between:

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Darsi Sudhakara Rao.

…Petitioner

and

The Govt.of A.P., and others.

…Respondents

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WRIT PETITION No.25832 of 2006

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ORDER:

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The petitioner is statedly the founder member of Vasavi Academy of Education, the 11th respondent herein (hereafter called, the Society), a Society registered under the Andhra Pradesh Societies Registration Act, 1860, and which is deemed to be registered under the Andhra Pradesh Societies Registration Act, 2001 (for short 'the Act'), as per Section 32(2) thereof. The petitioner filed O.P.No.1116 of 2005 on the file of the Court of the II Additional Chief Judge, City Civil Court, Hyderabad, under Section 23 of the Act for adjudication of a dispute arising among the Committee and/or members of the Society. The petitioner alleges that contrary to the provisions of the Act and Articles of Association, respondents 2 to 10 in abuse of their position as members misused the funds of the Society. Be that as it is, the O.P filed by the petitioner was dismissed on 28.11.2006. The petitioner states that he is taking steps for filing an appeal against the said order. The petitioner also sent a petition to the

Commissioner and Inspector General of Registration and Stamps on 26.10.2006 for redressal. The same was returned by the first respondent advising the petitioner to approach appropriate Court under Section 23 of the Act. In this Writ Petition the petitioner seeks a writ of mandamus declaring that the governing body of the Society is functioning contrary to Section 14 of the Act, that governing body is guilty of several violations of the Memorandum of Association and Articles of Association, and dismiss the governing body for committing misappropriation, mal administration and breach of trust.

The learned Counsel for the petitioner submits that under Section 23 of the Act any dispute arising among the Committee or the members of the Society has to be adjudicated by the District Court concerned. Such application of the petitioner was dismissed, against which the petitioner is taking steps for filing appeal. According to the learned Counsel, if appropriate orders are not passed against the governing body of the 11th respondent pending further action the public would suffer.

In sum and substance, the petitioner seeks relief only against the 11th respondent and its governing body consisting of respondents 2 to 10. In a dispute arising among the members of the governing body or in relation to the Society, a Writ Petition is not a proper remedy. A society registered under the Act can neither be treated as a "State" or "other agency discharging public functions". In the absence of this basic requirement, this Writ Petition is wholly misconceived.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

13.12.2006

vs